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CLEARINGHOUSE RULE 99-056

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

I. Statutory Authority

Section HFS 145.07 (1) provides that any teacher, principal, director or nurse serving a school or day care center may send a child home under certain circumstances. If amended as proposed, s. HFS 145.07 (1) would further provide that the “teacher, principal or director authorizing the action shall ensure that the parent, guardian or other person legally responsible for the child and the nurse serving the child’s school or day care center are informed of this action.”

In contrast, s. 252.21 (2), Stats., provides, in pertinent part, that: “Any teacher, school nurse, or principal who sends a pupil home shall immediately notify the parents of the pupil of the action and the reasons for the action. A teacher who sends a pupil home shall also notify the principal of the action and the reasons for the action.”

The statutory requirement that the school nurse who sends a pupil home notify the pupil’s parents is not included in s. HFS 145.07 (1). Also, the statutory requirement that the notification be immediate is not included in s. HFS 145.07 (1). Further, the statutory requirement that a teacher who sends a pupil home notify the principal is not included in s. HFS 145.07 (1).

2. Form, Style and Placement in Administrative Code

a. Throughout the rule, section titles should be shown with an initial capital letter and in bold print, rather than capitalized and underscored. [See s. 1.05 (2) (b), Manual.]

b. In s. HFS 145.04 (1) (g), “confidentiality of HIV test” should be changed to “confidentiality of HIV test” since inserted material should be underscored. [See s. 1.06 (1), Manual.] Also, the acronym “HIV” should not be used without a definition. [See s. 1.01 (8), Manual.]

c. SECTION 7 indicates that s. HFS 145.06 is renumbered “145.07”. It should indicate that it is renumbered “HFS 145.07”. Moreover, SECTIONS 9 and 11 amend provisions in renumbered s. HFS 145.07. SECTIONS 7, 9 and 11 should be combined into one SECTION. [See s. 1.04 (2) (a) 2. and 4., Manual.]

d. In s. HFS 145.08 (1), “M. tuberculosis” should not be underscored.

e. In the Note following s. HFS 145.09 (3), there is no notation that the publication will be on file with the Revisor of Statutes, the Secretary of State and available from the Department of Health and Family Services.

f. In s. HFS 145.11 (1) (b) 2., 3. and 4., the acronym “TB” should not be used without a definition. [See s. 1.01 (8), Manual.]

g. SECTION 12 should specify that “HFS 145.12, 145.13 and 145.14 are renumbered HFS 145.14, 145.15 and 145.16 and, as renumbered, are amended to read:”. The material currently in SECTION 14 should then be incorporated into that SECTION.

Another SECTION should then be created to specify that “HFS 145.15, 145.16, 145.17 and 145.18 are renumbered HFS 145.17, 145.18, 145.19 and 145.20”.

Finally, another SECTION should be created to specify that “HFS 145.19 and 145.20 are renumbered HFS 145.21 and 145.22 and, as renumbered, are amended to read:”. The material currently in SECTION 15 should then be incorporated into that SECTION. [See s. 1.04 (2), Manual.]

h. In s. HFS 145.14 (2), added material should be shown as underscored and deleted material should be shown as stricken-through. The pertinent phrase should be shown as follows: “who had ~~sexual intercourse~~ physical contact with a case that involved the genitalia of one of them during a”. Also note the misspelling of “genitalia” in the rule.

3. Conflict With or Duplication of Existing Rules

In Appendix A to ch. HFS 145, the introductory paragraph of category I specifies that certain diseases must be reported immediately “by telephone” to the patient’s local health officer.

However, s. HFS 145.04 (3) (a) eliminates the requirement that the notification be “by telephone”. This discrepancy should be reconciled.

Also, this introductory paragraph includes the following sentence: “Complete and mail an Acute and Communicable Diseases Case Report (DOH 4151) to the address on the form within 24 hours.” The text of ch. HFS 145 does not include this requirement, and Appendix A does not specify to whom this requirement applies. This should be clarified.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the last paragraph of the analysis and in s. HFS 145.01, s. 252.10 (6) (b), Stats., also should be cited as authority for the rule.

b. In the last paragraph of the analysis, it appears that ss. 252.03, 252.06 and 252.18 to 252.21, Stats., also should be cited as provisions interpreted by the rule.

c. In s. HFS 145.06 (4) (intro.), it appears that the reference to s. 250.04 (10), Stats., should be changed to s. 250.04 (1), Stats. In addition, s. HFS 145.06 (4) (intro.) twice refers to s. 252.02 (4) and (6), Stats. It appears that the second of those references should be changed to s. 252.03 (1) and (2), Stats. [See s. HFS 145.06 (6) for a comparison.]

Also, in s. HFS 145.06 (4) (intro.) and (6), is it the intention that an official would have to be empowered to act under ss. 250.02 (1), 250.04 (1) **and** 252.02 (4) and (6), Stats., before directing a person to do certain things, or could the official be empowered to act under either s. 250.02 (1), 250.04 (1) **or** 252.02 (4) and (6), Stats.? If it is the latter, then the “and” should be changed to “or”.

d. In s. HFS 145.13 (1), the reference to “ss. 49.43 to 49.475 and 49.49 to 49.497, Stats.” should be changed to “ss. 49.43 to 49.499, Stats.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the last sentence of the third full paragraph on page 2 in the analysis, a comma should be inserted after “animals”.

b. In the third sentence of the last paragraph on page 3 in the analysis, a comma should be inserted following “Stats.”.

c. The title of s. HFS 145.02 should end with a period, not a colon.

d. SECTION 2 should specify that the section involved “is repealed and recreated”, rather than “in repealed and recreated”.

e. In s. HFS 145.03 (19), it is not clear what “particular geographical area” means.

f. In s. HFS 145.06, a period should follow the title.

g. In s. HFS 145.06 (2) (d) (intro.), the phrase “as evidenced by:” should be changed to “as evidenced by any of the following:” in order to make clear the relationship of the items in s. HFS 145.06 (2) (d) 1. to 4.

h. In s. HFS 145.06 (2) (d) 1., a comma should be inserted following “chemicals.”

i. In the last sentence of s. HFS 145.07 (7), the first new “or” should be underscored. In addition, “~~of the child~~” should precede “or day care center”.

j. In s. HFS 145.09 (2), the meaning of “public work place” is unclear. Should the defined term “public building” be substituted?

k. In s. HFS 145.09 (4) (intro.), the phrase “shall report the following” should be changed to “shall report all of the following”.

l. In s. HFS 145.16, “advance nurse prescriber” should be changed to the defined term “advanced practice nurse prescriber”. In the first sentence of s. HFS 145.21, “advance” should be changed to “advanced”.

m. In the list of communicable diseases in Appendix A, some diseases, e.g., hantavirus infection and babesiosis, do not have a keyed number providing additional information. Were these omissions intentional?

n. In Appendix A to ch. HFS 145, in the first sentence of the introductory paragraph of category II, “suspect case” should be changed to the defined term “suspected case”.